

CHAPTER X

TOWN PLANNING AND CONTROL OVER BUILDINGS, ETC.

233. *Preparation of land use plan.*—(1) On the commencement of this Act, the Chief Executive Officer shall with the approval of the Board, cause to be prepared a spatial plan for land use to be followed in the cantonment which shall include—

(a) earmarking of zones for residential, institutional, commercial and other activities; and

(b) improvement schemes for areas considered sub-standard on account of narrowness of streets, poor lighting, poor ventilation or irregular line of buildings in a street.

(2) The Board shall give publicity to the land use plan prepared under sub-section (1), by publishing a gist of the plan in a local newspaper.

234. *Sanction for building.*—No person shall erect or re-erect a building on any land in a cantonment—

(a) in an area, other than the civil area, except with the previous sanction of the Board;

(b) in a civil area, except with the previous sanction of the Chief Executive Officer,

nor otherwise than in accordance with the provisions of this Chapter and of the rules and bye-laws made under this Act relating to the erection and re-erection of buildings:

Provided that if an erected or re-erected building is meant for public purposes, then it shall be made accessible to and barrier free for the persons with disabilities.

235. *Notice of new buildings.*—(1) Whoever intends to erect or re-erect any building in a cantonment shall apply for sanction by giving notice in writing of his intention—

(a) where such erection or re-erection is in an area, other than the civil area, to the Board;

(b) where such erection or re-erection is in a civil area, to the Chief Executive Officer.

(2) For the purposes of this Act, a person shall be deemed to erect or re-erect a building who—

(a) makes any material alteration or enlargement of any building; or

(b) converts into a place for human habitation any building not originally constructed for human habitation; or

(c) converts into more than one place for human habitation a building originally constructed as one such place; or

(d) converts two or more places of human habitation into a greater number of such places; or

(e) converts into a stable, cattle-shed or cow-house any building originally constructed for human habitation; or

(f) converts into a dispensary, stall, shops, warehouse, godown, factory or garage any building originally constructed for human habitation; or

(g) makes any alteration which there is reason to believe is likely to affect prejudicially the stability or safety of any building or the condition of any building in respect of drainage, sanitation or hygiene; or

(h) makes any alteration to any building which increases or diminishes the height of, or area covered by, or the cubic capacity of, the building, or which reduces the cubic capacity of any room in the building below the minimum prescribed by any bye-law made under this Act.

236. *Conditions of valid notice.*—(1) A Person giving the notice required by section 235 shall specify the purpose for which it is intended to use the building to which such notice relates.

(2) No notice shall be valid until the information required under the sub-section (1) and any further information and plans and undertakings which may be required under bye-laws made under this Act have been furnished to the satisfaction of the Chief Executive Officer, along with the notice.

237. *Powers of Board under certain sections exercisable by Chief Executive Officer.*—The powers, duties and functions of the Board under section 238, sub-section (1) of section 241, section 243, section 245 and section 248 excluding the provisions to sub-section (1) and the proviso to sub-section (2) of the said section 248 shall be exercised or discharged in a civil area by the Chief Executive Officer.

238. *Power of Board to sanction or refuse.*—(1) The Board may either refuse to sanction the erection or re-erection, as the case may be, of the building, or may sanction it either absolutely or subject to such directions as it thinks fit to make in writing in respect of all or any of the following matters, namely:—

(a) the free passage or way to be left in front of the building;

(b) the space to be left about the building to secure free circulation of air and facilitate scavenging and the prevention of fire;

(c) the ventilation of the building, the minimum cubic area of the rooms and the number and height of the storeys of which the building may consist;

(d) the provision and position of drains, latrines, urinals, cesspools or other receptacles for filth;

(e) the level and width of the foundation, the level of the lowest floor and the stability of the structure;

(f) the line of frontage with neighbouring buildings if the building abuts on a street;

(g) the means to be provided for egress from the building in case of fire;

(h) the materials and method of construction to be used for external and party walls for rooms, floors, fire-places and chimneys;

(i) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on; and

(j) any other matter affecting the ventilation and sanitation of the buildings, and the person erecting or re-erecting the building shall obey all such written directions in every particular.

(2) The Board may refuse to sanction the erection or re-erection of any building on any grounds sufficient in the opinion of the Board affecting the particular building;

Provided that the Board shall refuse to accord sanction the erection or re-erection of any building if such erection or re-erection is not in conformity with any general scheme sanctioned under section 240.

(3) The Board, before sanctioning the erection or re-erection of a building on land which is under the management of the Defence Estates Officer, shall refer the application to the Defence Estates Officer for ascertaining whether there is any objection on the part of the Government to such erection or re-erection; and the Defence Estates Officer shall return the application together with his report thereon to the Board within thirty days after it has been received by him.

(4) The Board may refuse to sanction the erection or re-erection of any building—

(a) when the land on which it is proposed to erect or re-erect the building is held on a lease from the Government, if the erection or re-erection constitutes a breach of the terms of the lease; or

(b) when the land on which it is proposed to erect or re-erect the building is entrusted to the management of the Board by the Government if the erection or re-erection constitutes a breach of the terms of the entrustment of management or contravenes any of the instructions issued by the Government regarding the management of the land by the Board; or

(c) when the land on which it is proposed to erect or re-erect the building is not held on a lease from the Government, if the right to build on such land is in dispute between the person applying for sanction and the Government.

(5) If the board decides to refuse to sanction the erection or re-erection of the building, it shall communicate in writing the reasons for such refusal to the person by whom notice was given.

(6) Where the Board neglects or omits, for one month after the receipt of a valid notice, to make and to deliver to the person who has given the notice any order of any nature specified in this section, and such person thereafter by a written communication sent by registered post to the Board calls the attention of the Board to the neglect or omission, then, if such neglect or omission continues for a further period of fifteen days from the date of such communication the Board shall be deemed to have given sanction to the erection or re-erection, as the case may be:

Provided that, in any case to which the provisions of sub-section (3) apply, the period of one month herein specified shall be reckoned from the date on which the Board has received the report referred to in that sub-section.

239. Order of stoppage of building or works in certain cases and disposal of things removed.— (1) Where the erection of any building or execution of any work has been commenced or is being carried on without or contrary to the sanction, but has not been completed, referred to in section 238 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provision of this Act or bye-laws made thereunder, the Chief Executive Officer may in addition to any other action that may be taken under this Act, by order require the person at whose instance the building or the work has been commenced or is being carried on to stop the same forthwith.

(2) If an order made by the Chief Executive Officer under sub-section (1) directing any person to stop the erection of any building or execution of any work is not complied with, the Chief Executive Officer may require any police officer to

remove such person and all his assistants and workmen from the premises or to seize any construction material, tool, machinery, scaffolding or other things used in the erection of any building or execution of any work within such times as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) Any of the things caused or to be seized by the Chief Executive Officer under sub-section (2) shall be disposed of by him in a manner specified in sub-sections (6) and (7).

(4) After the requisition under sub-section (2) has been complied with the Chief Executive Officer may, if he thinks fit, depute by a written order a police officer or an officer or an employee of the Board to watch the premises in order to ensure that the erection of the building or the execution of work is not continued.

(5) Where a police officer or an officer or an employee of the Board has been deputed under sub-section (4) to watch the premises, the cost of such deputation shall be paid by the person at whose instance such erection or execution is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as an arrear of tax under this Act.

(6) Any of the things caused to be removed by the chief Executive Officer under this section shall unless the owner thereof turns up to take back such things and pays to the Chief executive Officer charges for removal and storage of such things be disposed of by the Chief Executive Officer by a public auction or in such other manner as he thinks fit:

Provided that such things shall only be disposed of by the Chief Executive officer on the expiry of fifteen days in case of non perishable things and twenty four hours in case of perishable things from the date and time of seizure.

(7) The charges for removal and storage and sale of things sold under sub-section (6) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale and if no such claim is made within the said period, shall be credited to the cantonment fund.

240. *Power to sanction general scheme for prevention of over crowding, etc.*—The General Officer Commanding-in-Chief the Command in Consultation with the Principal Director may sanction a general scheme of erection or re-erection of buildings within such limits as may be specified in the sanction for the prevention of overcrowding or for purpose of sanitation, or in the interest of persons residing within those limits or for any other purpose, and may, in pursuance of such scheme impose restrictions on the erection or re-erection of buildings within those limit

Provided that no such scheme shall be sanctioned by the General Officer Commanding in Chief, the Command unless an opportunity has been given by a public notice to be published locally by the Chief Executive Officer requiring persons affected or likely to be affected by the proposed scheme, to file their objections or suggestions in the manner specified in the notice, within a period of thirty days of the publication of such notice, and the Chief Executive Officer shall after considering such objections and suggestions, if any, forward the same along with his recommendations to the Principal Director.

241. *Compensation.*—(1) No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of the refusal of the Board of sanction to the erection of any building or in respect of any direction issued by it under sub-section (1) of section 238.

(2) The Board shall make compensation to the owner of any building for any actual damage or loss sustained by him in consequence of the prohibition of the re-erection of any building or of its requiring any land belonging to him to be added to the street:

Provided that the Board shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which for a period of three years or more immediately preceding such refusal has not been in existence or has been unfit for human habitation.

242. *Completion notice.*—Every person to whom sanction for the erection or re-erection of any building in any area in a cantonment has been given under section 237 or section 238 by the Chief Executive Officer or, as the case may be, by the Board shall, within thirty days after completion of the erection or re-erection of the building give a notice of completion in writing to the Chief Executive Officer or the Board, as the case may be, and the Chief Executive Officer or the Board shall on receipt of such notice cause the building to be inspected in order to ensure that the building has been completed in accordance with the sanction given by the Chief Executive Officer or the Board, as the case may be.

243. *Lapse of sanction.*—Every sanction for the erection or re-erection of a building given or deemed to have been given as herein before provided shall be available for two years from the date on which it is given, and, if the building so sanctioned is not begun by the person who has obtained the sanction or some one lawfully claiming under him within that period, it shall not thereafter be begun unless the Chief Executive Officer, on application made therefor has allowed an extension of that period.

244. *Restrictions on use of buildings.*—(1) No person shall, without the written permission of the Board or otherwise than in conformity with the conditions, if any, of such permission,—

(a) use of permit to be used for human habitation any part of a building not originally erected or authorised to be used for that purpose or not used for that purpose before any alteration has been made therein by any work executed in accordance with the provisions of this Act and the bye-laws made thereunder;

(b) change or allow the change of the use of any land or building;

(c) convert or allow the conversion of one kind of tenement into another kind.

(2) Any person who contravenes the provisions of sub-section (1) shall on conviction be punishable with a fine which may extend to one lakh rupees and in the case of continuing contravention with an additional fine of rupees ten thousand for every day during which the contravention continues after the date it comes to the notice.

245. *Period for completion of building.*—A Board, when sanctioning the erection or re-erection of a building as heretofore provided, shall specify a reasonable period after the work has commenced within which the erection or re-erection is to be completed, and, if the erection or re-erection is not completed within the period so fixed, it shall not be continued thereafter without fresh sanction obtained in the manner heretofore provided, unless the Board on application made therefor has allowed an extension of that period:

Provided that not more than two such extensions, each for not more than one year, shall be allowed in any case.

246. *Completion certificate.*—The Chief Executive Officer shall on receipt of the notice under section 242 of this Act cause the building to be inspected either by himself or by the officer authorised by him in his behalf in order to ensure that the building has been completed in accordance with the sanction given and issue completion certificate provided that the person seeking the completion certificate shall assist the Chief Executive Officer in inspection of such building:

Provided that the building shall not be occupied for habitation unless a certificate is issued by the Chief Executive Officer or an officer authorised by him in this behalf:

Provided further that if the Chief Executive Officer fails within a period of thirty days after the receipt of the notice of completion, to communicate his refusal to issue such certificate, such certificate shall be deemed to have been granted.

247. *Illegal erection and re-erection.*—Whoever begins, continues or completes the erection or re-erection of a building—

(a) without having given a valid notice as required by sections 235 and 236, or before the building has been sanctioned or is deemed to have been sanctioned; or

(b) without complying with any direction made under sub-section (1) of section 238; or

(c) when sanction has been refused, or has ceased to be available or has been suspended by the General Officer Commanding-in-Chief, the Command, under clause (b) of sub-section (1) of section 58,

shall be punishable with fine which may extend to fifty thousand rupees and the cost of sealing the illegal construction and its demolition.

248. *Power to stop erection or re-erection or to demolish.*—(1) A Board may, at any time, by notice in writing, direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the Board considers that such erection or re-erection is an offence under section 247 and may, in any such case or in any other case in which the Board considers that the erection or re-erection of a building is an offence under section 247, within twelve months of the completion of such erection or re-erection in like manner, direct the alteration or demolition, as it thinks necessary, of the building, or any part thereof, so erected or re-erected:

Provided that the Board may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable:

Provided further that the Board shall not, without the previous concurrence of the General Officer Commanding-in-Chief, the Command, accept any sum by way of composition under the foregoing proviso in respect of any building on land which is not under the management of the Board.

(2) A Board shall by notice in writing direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the order under section 238 sanctioning the erection or re-erection has been suspended by the General Officer, Commanding-in-Chief, the Command, under clause (b) of sub-section (1) of section 58, and shall in any such case in like manner direct the demolition or alteration, as the case may be, of the building or any part thereof so erected or re-erected where the General Officer Commanding-in-Chief, the Command, thereafter directs that the order of the Board sanctioning the erection or re-erection of the building shall not be carried into effect or shall be carried into effect with modifications specified by him:

Provided that the Board shall pay to the owner of the building compensation for any loss actually incurred by him in consequence of the demolition or alteration of any building which has been erected or re-erected prior to the date on which the order of the General Officer Commanding-in-Chief, the Command, has been communicated to him.

249. *Power to seal unauthorised constructions.*—(1) It shall be lawful for the Chief Executive Officer, at any time, before or after making an order of demolition under section 248 or of the stoppage of erection of any building, or execution of any work, to make an order directing the sealing of such erection or work or of the premises in which such erection or work is being carried on or has been completed at the cost of the offender in such manner as may be prescribed by rules for the purpose of carrying out the provisions of this Act or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on, has or, has been sealed, the Chief Executive Officer may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the Chief Executive Officer under sub-section (2); or

(b) under an order of an appellate authority in an appeal made under this Act.

(4) Any person who contravenes the provisions contained in sub-section (3) shall be punishable with imprisonment which may extend to six months or with fine which may extend to twenty thousand rupees, or with both.

250. *Courts not to entertain proceedings in certain cases.*—(1) After the commencement of this Act, no court shall entertain any suit, application or other proceedings in respect of any order or notice unless an appeal under section 340 is preferred and the same is disposed of by the appellate authority under sub-section (3) of section 343 of this Act.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceedings pending in any court immediately before the commencement of this Act shall continue to be dealt with and disposed of by that court as if the said section has not been brought into force.

251. *Power to make bye-laws.*—A Board may make bye-laws prescribing—

(a) the manner in which notice of the intention to erect or re-erect a building in the cantonment shall be given to the Board or, as the case may be, the Chief Executive Officer and the information and plans to be furnished with the notice;

(b) the manner in which and the form in which a notice of completion of erection or re-erection of any building in the cantonment shall be given to the Board or, as the case may be, the Chief Executive Officer and the information and plans to be furnished with the notice;

(c) the type or description of buildings which may or may not, and the purpose for which a building may or may not, be erected or re-erected in the cantonment or any part thereof;

(d) the minimum cubic capacity of any room or rooms in a building which is to be erected or re-erected;

(e) the fees payable on provision by the Board of plans or specifications of the type of buildings which may be erected in the cantonment or any part thereof;

(f) the circumstances in which mosque, temple or church or other sacred building may be erected or re-erected; and

(g) with reference to the erection or re-erection of buildings, or of any class of buildings, or any of the following matters, namely:—

(i) the line of frontage where the building abuts on a street;

(ii) the space to be left about the building to secure free circulation of air and facilities for scavenging and for the prevention of fire;

(iii) the materials and method of construction to be used for external and party walls, roofs and floors;

(iv) the position, the materials and the method of construction of stair-cases, fire places, chimneys, drains, latrines, privies, urinals and cess-pools;

(v) height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(vi) the level and width of the foundation, the level of the lowest floor, the stability of the structure and the protection of building from dampness arising from-sub-soil;

(vii) the number and height of the storeys of which the building may consist;

(viii) the means to be provided for egress from the building in case of fire;

(ix) the safeguarding of wells from pollution; or

(x) the materials and method of construction to be used for godowns intended for the storage of foodgrains in excess of eighteen quintals in order to render them rat proof.